

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILLIP L. DICK,

Plaintiff,

v.

STEPHEN COCKLIN,

Defendant.

Case No. C07-5370FDB/JKA

ORDER DISMISSING
COMPLAINT WITHOUT
PREJUDICE

The Magistrate Judge recommends that this cause of action be dismissed without prejudice as he challenges the fact or duration of his confinement and his sole remedy is a writ of habeas corpus rather than a claim under 42 U.S.C. § 1983. Plaintiff filed a letter following entry of the Report and Recommendation indicating he is seeking legal representation and that he still suffers “mental abuse and stress from this matter.” He also files a document from the Clark County District Court. Defendant replies that the issue of representation is irrelevant since the relief he seeks is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). The Court agrees.

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the report and recommendation, and the remaining record, does hereby find and
ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Plaintiff’s complaint is **DISMISSED WITHOUT PREJUDICE**. Plaintiff cannot challenge the propriety of his current his incarceration in a civil rights action.
- (3) The Clerk is directed to send copies of this Order to plaintiff, counsel for defendant, and to the Hon. J. Kelley Arnold.

DATED this 14th day of March 2008.



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE